

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NML CAPITAL, LTD.,

Plaintiff,

V.

THE REPUBLIC OF ARGENTINA,

Defendant.

08 Civ. 3302 (TPG)
ECF Case

**STATEMENT OF MATERIAL FACTS
PURSUANT TO LOCAL RULE 56.1**

Pursuant to Local Rule 56.1, plaintiff NML Capital, Ltd., (“NML”) submits the following Statement of Material Facts as to which there is no genuine issue to be tried.

1. NML is the beneficial owner of certain Floating Rate Accrual Notes issued by Argentina, designated ISIN US040114AX83 (“FRANs”). Declaration of Elliot Greenberg, dated July 23, 2008 (“Greenberg Decl.”) ¶¶ 3, 6; Account Statement from JPMorgan, dated July 23, 2008, attached as Exhibit 2 to the Greenberg Decl.

2. The FRANs were issued by the Republic of Argentina (“Argentina”) pursuant to a Fiscal Agency Agreement, dated October 19, 1994 (“FAA”). FAA, attached as Exhibit 1 to the Declaration of Susan Y. Shamoto, dated July 25, 2008, (“Shamoto Decl.”) & Prospectus Supplement for the FRANs, attached as Exhibit 2 to the Shamoto Decl.

3. The \$132,000,000.00 principal amount of NML's FRANs is comprised of the \$29,850,000.00 principal amount that is the subject of this action, plus (1) the \$32,000,000.00 principal amount that is the subject of a related litigation, NML Capital, Ltd.

v. Republic of Argentina, No. 05 Civ. 2434 (TPG) (S.D.N.Y. February 28, 2005) (“NML II”); (2) the \$54,850,000.00 principal amount that is the subject of another related litigation, NML Capital, Ltd. v. Republic of Argentina, No. 06 Civ. 6466 (TPG) (S.D.N.Y. August 25, 2006) (“NML III”); and (3) the \$15,300,000.00 principal amount that is the subject of another related litigation, NML Capital, Ltd. v. Republic of Argentina, 07 Civ 2690 (TPG) (S.D.N.Y. April 2, 2007) (“NML V”) - all cases in which the Court has granted NML’s motions for summary judgment.

4. The \$29,850,000.00 principal amount at issue in this action was purchased by NML in two transactions: \$15,000,000.00 on March 12, 2008 and \$14,850,000.00 on March 19, 2008. See Account Statements from JPMorgan, dated March 14, 2008 and March 24, 2008, attached as Exhibit 1 to the Greenberg Decl.

5. In the FAA, Argentina expressly agreed (i) to submit to the jurisdiction of this Court; (ii) that service of process could be made on it by serving its agent, Banco de la Nación Argentina, in New York City; (iii) to waive any claim of sovereign immunity, and (iv) that the FAA and that the bonds issued pursuant to the FAA would be governed by and construed in accordance with the laws of the State of New York. FAA (Shamoto Decl. Ex. 1), §§ 22, 23.

6. Argentina further agreed in the FAA that, among other things, its failure to pay interest on when due on bonds issued pursuant to the FAA, or a declaration by Argentina of a moratorium on the payment of principal of, or interest on, Argentina’s external debt, would each constitute an event of default. Id. § 12.

7. On December 24, 2001, Argentina declared a moratorium on the payment of principal and interest with respect to its external debt. CNN.com article, dated December 24, 2001, attached as Exhibit 3 to the Shamoto Decl.

8. The moratorium is still in effect. Argentina repudiated its external indebtedness as part of its January 2005 debt restructuring. Argentine Law No. 26,017, under which Argentina publicly announced its intention never to pay NML or any of the other bondholders who did not participate in a Debt Exchange, attached as Exhibit 5 to the Shamoto Decl.

9. The FRANs matured on April 10, 2005. Prospectus Supplement (Shamoto Decl. Ex. 2), at S-5 to S-6.

10. Since declaring the moratorium, Argentina has not paid NML the principal amount and the accrued interest that is due and payable on the FRANs and it continues in default. Greenberg Decl. ¶ 7; Answer, attached as Exhibit 4 to the Shamoto Decl., ¶ 13.

Dated: New York, New York
July 25, 2008

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